

# Chapter 9

## Considerations and Recommendations

### No Recommendation at This Time

In light of the outstanding considerations articulated below, the Secretary is unable to provide a recommendation for implementation of the SLWRI NED Plan until these considerations are addressed. Although there is no recommendation at this time for Congressional action, all of the alternatives analyzed are feasible from an engineering standpoint. Based on the economic analysis of the alternatives, alternative CP4A has the highest net NED benefits.

### Outstanding Considerations

#### Funding Concerns

Current Federal Budget conditions and the impacts those conditions have on Reclamation's budgetary resources significantly constrain Reclamation's ability to fully fund new construction activities of the scope and magnitude required by the SLWRI. As a result, the traditional model under Federal reclamation law, with Congress providing funding from annual appropriations to cover all the costs of construction over a relatively short period of time, and a portion of those funds being repaid to the Treasury over 40 – 50 years, is unrealistic for the identified SLWRI NED Plan. Alternative means of financing (primarily non-Federal) for a majority of the construction costs of the NED Plan would have to be identified and secured in order for the Secretary of the Interior to be able to recommend a construction authorization to Congress. These alternative financing arrangements are being actively explored at a conceptual level.

Significant concerns have been raised by existing CVP water service and repayment contractors regarding water supply benefits from the proposed project being made available to California SWP contractors outside the existing service area of the CVP. In part, their concern emanates from a desire to have water supply developed under any of the alternatives meet existing demands of Federal contractors within the existing CVP service area before being utilized to meet water supply needs of public water agencies that do not currently contract for delivery of CVP water. To address this concern, Reclamation will work with public water agencies that do currently contract for the delivery of CVP water, and other interested governmental and non-governmental organizations to explore alternative, non-traditional methods of financing. The alternative ultimately chosen as the recommended plan will need to be consistent with State water law and include the use of new storage to provide increased cold water

protection for anadromous fish in the Sacramento River. Additionally, it should include water supply benefits for those public water agencies that are willing to contribute non-Federal funds for the construction of the project, with preference given to those agencies that are within the existing service area of the CVP.

### **State of California Support and Participation**

Section 103(d)B(i) of Public Law 108-361 makes clear the intent of Congress that the Secretary consult with the State prior submitting the report. From discussions with the State, it is our understanding there has been a determination that the PRC protecting the McCloud River prohibits State participation in the planning or construction of enlarging Shasta Dam other than participating in technical and economic feasibility studies.

### **Environmental Considerations**

While the Fish and Wildlife Coordination Act process has been completed through the exchange of comments and responses outlined in an appendix to the EIS, there are listed species under both the Federal and State endangered species laws that may be affected by this action. While it is clear that a consultation under Section 7 of the Federal Endangered Species Act will be required prior to implementation of any alternative, until the financing issues are resolved, it is unclear whether California's endangered species laws and other State environmental statutes will apply. Should any State legal requirements apply, the costs of attaining compliance with these State laws shall be the responsibility of the non-Federal participant.

### **Process Considerations and Required Authorities**

Prior to a recommendation, the Secretary is of the view that there must be resolution of the outstanding considerations raised. In the absence of a Congressional authorization to the contrary, resolution of these issues could be achieved through an agreement between the Secretary and appropriate non-Federal entities on a specific alternative and how the funding will be provided for that specific alternative. Any such agreement must address: total funding, payment up-front by the non-Federal partner, ability to use the non-Federal funds in the construction process, a plan to meet all environmental commitments, and agreement on the operations of the revised facility and conveyance of the associated water to the intended beneficiary. Such an agreement would then be presented to Congress for authorization.

If Congress were to authorize construction based on an agreement that addresses the Secretary's outstanding concerns, additional technical issues would need to be considered and addressed regarding Federal appropriations and the associated ceiling, treatment of additional operations and maintenance costs, completion of applicable State and Federal permitting actions, and Congressional authorization of required authorities.